

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
V.)	CIVIL ACTION NO. 07-12059-PBS
)	
CHARLES PEAVY)	

STIPULATION REGARDING COMMITMENT PURSUANT TO 18 U.S.C. § 4246

Whereas on November 22, 2006, the United States filed a certificate pursuant to 18 U.S.C. § 4248 and, thereafter, this Court, pursuant to 18 U.S.C. § 4247(d), held an evidentiary hearing from November 3-13, 2008, to determine whether the Respondent, Charles Peavy, was a “sexually dangerous person;”

Whereas pursuant to Section 4247(d), Mr. Peavy, during the November, 2008 hearing, was represented by counsel, had the opportunity to testify, to present evidence, to subpoena witnesses on his behalf, and to confront and cross-examine witnesses who appeared at the hearing;

Whereas, based on the totality of evidence presented during the hearing, the Court found preliminarily that Mr. Peavy could be committed under either 18 U.S.C. § 4246 or § 4248;

Whereas, the Court recommended that the Bureau of Prisons re-evaluate Mr. Peavy for possible certification pursuant to 18 U.S.C. § 4246 at an institution other than FMC Devens, preferably FMC Butner; and

Whereas, the Bureau of Prisons performed such a an evaluation and, on July 23, 2009, certified the Respondent pursuant to 18 U.S.C. § 4246;

Now, therefore, it is hereby stipulated by the parties that:

1. Mr. Peavy waives his right, if any, to a separate hearing on a Section 4246 commitment, and to any rights he may have to the procedures outlined in Sections 4246 (c) and 4247(d) at such a separate hearing. Mr. Peavy does not waive, and expressly reserves his rights, without limitation to subsequent periodic reporting pursuant to Section 4247(e) and hearings pursuant to Section 4247(h).

2. The parties agree that, at the November, 2008 hearing, the government presented clear and convincing evidence that Mr. Peavy is presently suffering from a mental disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another.

3. As a result, the parties agree that the Court may order Mr. Peavy committed to the custody of the Attorney General pursuant to 18 U.S.C. § 4246 and that such order would resolve the instant case.

4. If so committed by this Court, Mr. Peavy acknowledges that pursuant to 18 U.S.C. § 4246, the BOP shall, within its designation discretion, hospitalize Mr. Peavy for treatment in a suitable BOP facility, but nonetheless requests a Court recommendation that he be designated to FMC Butner, North Carolina or to a suitable BOP facility in or near the state of Florida, or such other facility as may be best equipped

to attempt to place Mr. Peavy in a Florida facility.

Respectfully submitted,

For the Respondent

For the Petitioner

CHARLES PEAVY
by his attorney,

MICHAEL K. LOUCKS
Acting United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on September 10, 2009.

/s/ Jennifer C. Boal
Jennifer C. Boal
Assistant U.S. Attorney